IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

WP(C).No. 19462 of 2007(P)

PETITIONER:

MOIDEENKUTTY HAJI, AGED 63 YEARS,
S/O.MAMMIKUTTY, ANNACHAMPALLI HOUSE,
THALAKADATHOOR, THIROOR, MALAPPURAM DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU
SRI.T.A.UNNIKRISHNAN

RESPONDENTS:

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1. CHERIYAMUNDAM GRAMA PANCHAYATH,
REP. BY ITS SECRETARY, CHERIYAMUNDAM,
TIRUR.

2. THE SECRETARY,
CHERIYAMUNDAM GRAMA PANCHAYATH,
CHERIYAMUNDAM, TIRUR.

BY ADV. SRI.G.UNNIKRISHNON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C) No.19462 of 2007

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Dated: 10th October, 2007

JUDGMENT

Heard both sides. The prayer in this Writ Petition is for a direction to the respondents 1 and 2 not to cause any obstruction to the ingress and egress to the petitioner's properties mentioned in Ext.P4.

2. Mr.G.Unnikrishnan, counsel for the Panchayat submits that the prayer in the Writ Petition is virtually an injunction against the Panchayat which will be beyond the scope of the Writ Petition under Article 226 of the Constitution. He also submitted that Ext.P5 order which is indirectly challenged is appealable before the Tribunal for Local Self Government Institutions.

3. Mr.T.A.Unnikrishnan, counsel for the petitioner referred to the judgment of this court in **M.V.Joseph v. District Magistrate & Anr.** (1996(2) KLJ 213) and submitted that the Panchayat is not entitled to obstruct the right of the petitioner to access the highway from all points of his property.

4. Having considered the rival submissions, I am of the view that it is for the petitioner either to move the civil court or to invoke his statutory remedies against Ext.P5. I dispose of the Writ Petition

without granting the prayers sought for. The order regarding maintenance of status quo will continue for a further period of two weeks from today.

srd **PIUS C.KURIAKOSE, JUDGE**